

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 3401 - SB 3277

February 27, 2012

SUMMARY OF BILL: Requires all municipally or rural cooperatively owned utilities to allow telecommunication service providers and cable operators to make pole attachments at just, reasonable, and non-discriminatory rates, terms and conditions. If the parties involved cannot reach a pole attachment agreement, either party may request the Tennessee Regulatory Authority (TRA) to oversee negotiations and mediate differences arising. The TRA shall have jurisdiction to resolve disputes between parties, enforce any resulting agreed-upon terms, and may equally charge both parties for costs associated with conducting the mediation or arbitration. The TRA will also have the authority to take into consideration the applying of rules and regulations set by the Federal Communications Commission (FCC) in the Federal Communications Act of 1934 when determining rates, terms, and conditions of the agreement.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

Increase State Expenditures – Not Significant

Decrease Local Revenue – Exceeds \$7,000,000

Increase Local Expenditures – Not Significant

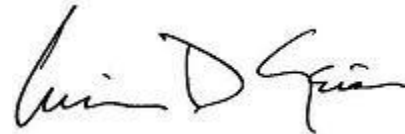
Assumptions:

- This bill will not affect or impair any contracts in effect before the effective date of this bill and will only apply to contracts entered into or renewed after the effective date.
- According to TRA, the collection of costs associated with mediation and arbitration will be recovered equally from both parties; the net fiscal impact to state revenue and expenditures is estimated to be not significant. Any increase in expenditures for local governments to pay a portion of the costs will not be significant.
- According to TRA, the bill does not expressly authorize the levying and collection of fines associated with the Authority's enforcement of mediation agreements, which will not result in an increase in state revenue.
- According to the Tennessee Municipal Electric Power Association (TMEPA), with 83% of their membership reporting, there are 1,573,340 TMEPA poles statewide.
- The current annual fee charged by TMEPA for a cable TV (CATV) attachment is \$18.55 per pole, with 784,202 CATV attachments; resulting in local government revenue collections of \$14,546,947 (\$18.55 x 784,202).

- The current annual fee charged by TMEPA for a telephone attachment is \$25.94 per pole, with 762,270 telephone attachments; resulting in local government revenue collections of \$19,773,284 ($\$25.94 \times 762,270$).
- It is assumed TRA will adopt an attachment fee rate that is less than the current rate, which will result in a decrease in local government revenue.
- In the event TRA adopts the FCC formula, it is estimated that annual CATV attachment rates will be lowered to \$8.00 per pole, and telephone attachment rates will be lowered to \$16.00 per pole.
- Adopting the FCC formula will result in a decrease in CATV attachment fee collections of \$8,273,331 [$(\$18.55 - \$8.00) \times 784,202$], and a decrease in telephone attachment fee collections of \$7,576,964 [$(\$25.94 - \$16.00) \times 762,270$].
- The use of the FCC formula when determining new rates will cause a decrease in local government revenue of \$15,850,295 ($\$8,273,331 + \$7,576,964$).
- While it cannot be determined what rate the TRA will choose to adopt during mediation between parties, any decrease to the current rate collected will result in a decrease in local government revenue. It can be reasonably assumed that during mediation a compromise on the new rate will be reached.
- It is assumed that the compromised rate would be between the current rate and the rate calculated using the FCC formula. Therefore, it is reasonably estimated that a median rate adopted through mediation will result in a recurring decrease in local government revenues exceeding \$7,000,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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